

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**

**February 5, 2009**



**Planning Exception PE 09-01: Congregation Beth Shalom**

**CASE DESCRIPTION:** request for approval of an exception from the subdivision ordinance requirement to install a sidewalk in conjunction with a proposed final plat

**LOCATION:** 101 North Coulter Drive, being 1.74 acres of land adjoining the southeast side of North Coulter Drive between East 25<sup>th</sup> and East 27<sup>th</sup> Streets in Bryan, Brazos County, Texas

**LEGAL DESCRIPTION:** 1.74 acres out of John Austin League, A-2

**EXISTING LAND USE:** synagogue and vacant land

**ZONING:** Residential District – 5000 (RD-5)

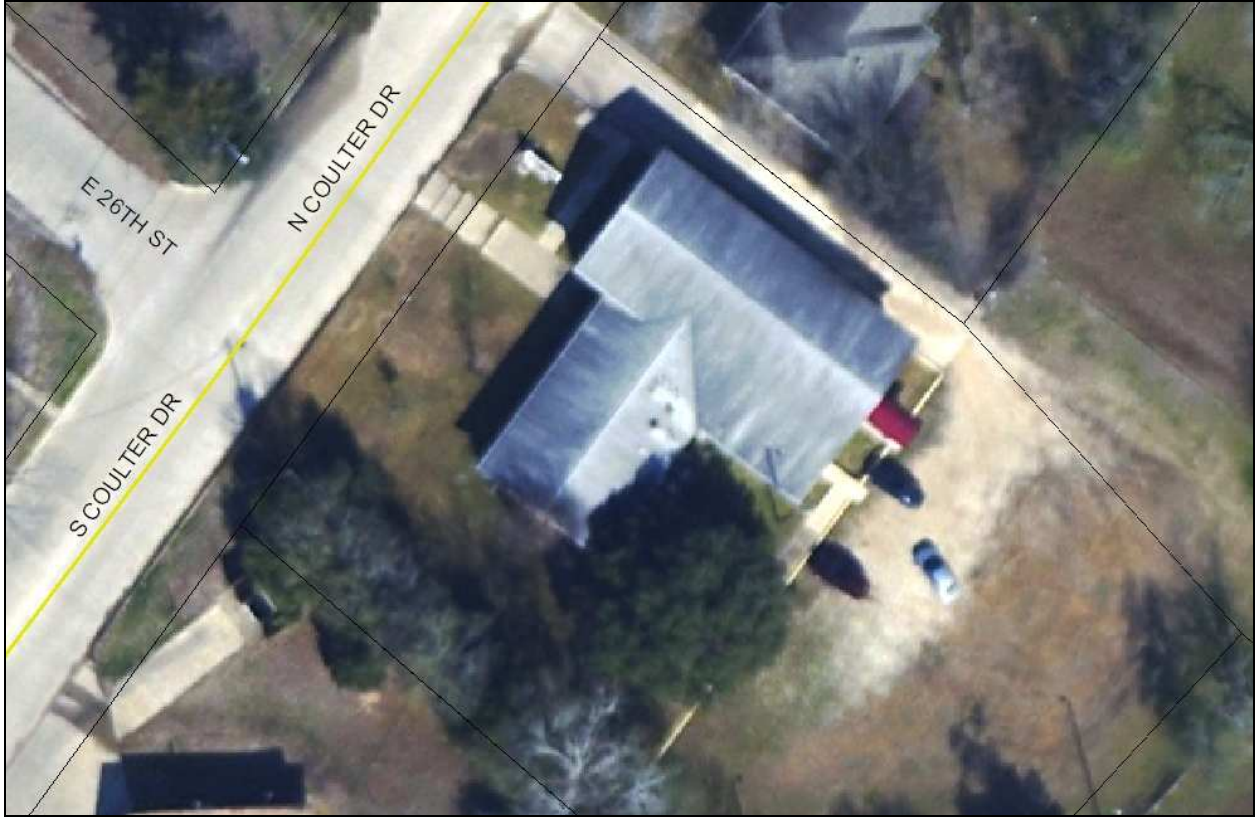
**APPLICANT(S):** Congregation Beth Shalom

**STAFF CONTACT:** Randy Haynes, Staff Planner

**SUMMARY RECOMMENDATION:** Staff recommends **denying** the requested exception.











## **BACKGROUND:**

The applicants, Congregation Beth Shalom, are proposing to plat the 1.74-acres that they own adjoining North Coulter Drive. This property has never been formally represented on a subdivision plat. Subdivision regulations require the installation of a 6-foot wide sidewalk set back 3 feet from the edge of the curb on North Coulter Drive, a curb-and-gutter street. The applicants are requesting an exception to this requirement to not be required to install such a sidewalk before the final plat is recorded. The required sidewalk would be approximately 145 feet in length.

## **RELATION TO BRYAN'S COMPREHENSIVE PLAN:**

The City of Bryan adopted the Comprehensive Plan Update in 2007. The plan is the framework for the establishment of zoning and other regulatory tools. The current plan includes policies and recommendations related to the various physical aspects of the community. These aspects are supported by a set of goals and objectives. The Planning and Zoning Commission shall consider the following when making a decision regarding this exception request:

### Chapter 6: Transportation

GOAL #1: Provide a Safe, Efficient and Convenient Multi-Modal Transportation System.

Objective C) Encourage utilization of alternative modes of transportation including transit, bicycles and pedestrians.

Action Statement 1: Review and update current ordinances to ensure that new development provide sidewalks and bicycle accommodations with direct connections to residential, schools, commercial, and recreational areas and to transit stops.

## ANALYSIS:

The Planning and Zoning Commission may authorize exceptions from standards of the Subdivision Ordinance when, in its opinion, compliance would not be in the public interest. In granting an exception, the Planning and Zoning Commission shall prescribe only conditions that it deems necessary or desirable in the public interest.

In making its findings, the Planning and Zoning Commission shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such exception upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.

No exception shall be granted unless the Planning and Zoning Commission finds:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the standards would deprive the applicant of the reasonable use of the land.

**The applicant states that the slope of the land makes installation of a sidewalk unsafe at this location. The City Engineer's office has advised that construction of the required walkway at this location would be routine and would not require additional structure to allow it to function on the existing slope. Staff maintains that strict compliance with the subdivision regulations does not deprive the applicant of the reasonable use of the land.**

2. That the exception is necessary for the preservation and enjoyment of the property.

**Staff contends that the construction of a sidewalk does not prevent the property owners from the preservation and enjoyment of the property.**

3. That the granting of the exception will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area

**Staff contends that granting the exception may be in the long term, detrimental to public health, safety, or welfare. Coulter Drive is classed as a major collector roadway. Typically, pedestrian traffic is higher in proximity to parks, neighborhood services, schools and places of worship. All of these uses exist either adjacent to or within walking distance of the subject location. Staff contends that a sidewalk at this location will contribute to public safety by allowing an alternative pedestrian path to the roadway.**

4. That the granting of the exception will not have the effect of preventing the orderly subdivision of adjoining land in the vicinity in accordance with the provisions of this Ordinance.

**Granting the exception may detrimentally affect the transportation network in the vicinity if future development requires a sidewalk to adjoin to this proposed sidewalk.**

## RECOMMENDATION:

Staff is unable to make affirmative findings regarding all four above-mentioned criteria, as required by the Subdivision Ordinance for approval of an exception to subdivision design standards. Staff therefore recommends **denying** the request.

**EXCERPT FROM APPLICANTS' EXCEPTION APPLICATION:**

**The following page should be completed for all exception requests.**

Please describe the type of exception being requested:

Exception to install 6' wide sidewalk along front of 101 N. Coulter.

Are there special circumstances or conditions affecting the land involved such that the strict application of the ordinance would deprive you reasonable use of the land:

Yes. The elevation of the street to top of berm creates a dramatic slope and if a sidewalk is installed it would create a public hazard.

Is the exception necessary for the preservation and enjoyment of substantial property rights:

Yes. Children play in the front area. If a sidewalk is installed a retaining wall will also need to be added for the integrity of the berm not to be compromised.

The instillation of the retaining wall will also cause a potential hazard for these young ones and a added liability.

State how the granting of the variance would not be detrimental to the public health, safety, or welfare or injurious to other property in the area:

On North Coulter Drive there are no other visible sidewalks, therefore adding this one will not add to the safety of the public, welfare of the public nor will it prove to protect the public from injury.

It could cause injury because of the slope of the driveway to sidewalk ratio. It will further encourage use of this instrument by pedestrians and wheelchair users alike which would increase potential liability.

State how this exception will not effect the orderly development of the subject property and/or land in the vicinity in accordance with City of Bryan Ordinances:

The exception will not effect the orderly development because Coulter Drive has not been developed. Not developing this section at this time will allow The City of Bryan to make future changes in design of the City thoroughfare plan.